



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS AIR FORCE MATERIAL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE OHIO

MEMORANDUM FOR ALL AFMC SJAS

10 DEC 2001

FROM: HQ AFMC/JA
4225 Logistics Ave, Rm N 237
Wright-Patterson AFB, OH 45433

SUBJECT: Force Protection Augmentation

1. The recent terrorist attacks in New York City and the Pentagon and the ensuing extended periods in certain Force Protection (FP) conditions have raised questions as to available options for augmenting our force protection personnel. The DoD policy to protect DoD elements and personnel from terrorist attack is a high priority, integrated systems approach. DoD Directive 2000.12, *DoD Antiterrorism/Force Protection (AT/FP) Program*, para. 4 (13 Apr 1999). The starting point in this analysis is that "[s]ecurity of property, equipment, and personnel is the responsibility of each military and civilian employee of DOD." AFJ 31-102, *Physical Security*, para. 1-6 (31 May 91).

2. **READY Program.** Our Security Forces personnel are the primary implementers of FP. AFI 31-201, *The Air Force Antiterrorism/Force Protection (AT/FP) Program Standards*, para. 3.1.2 (1 Aug 99). However, increased threats have triggered increased FP measures that require personnel augmentation. The Resource Augmentation Duty (READY) Program prescribes procedures for installations identifying FP augmentees. AFI 10-217, *Resource Augmentation Duty (READY) Program*, para. 1.1 (1 Apr 99). Augmentation is the use of personnel for duties outside of their normal day-to-day duties. See AFI 10-217, para 3.1.

a. Both military and civilian employees may be used as READY augmentees. AFI 10-217, para 3.1. However, military members assigned to deployable positions (unit type codes) "will not" be assigned to the READY program. AFI 10-217, para. 3.4.1. Military personnel resources should be exhausted before resorting to civilian employees as READY augmentees. AFI 10-217, para 3.1. NAFI civilians may be used as augmentees by contracting with the owning nonappropriated fund instrumentality. See AFI 10-217, para. 5.1.3; AFI 64-302, para. 5.15. The units using the augmentees must train them. AFI 31-217, para. 3.2.2. Civilian augmentees "should" be assigned to duties similar to their official position. AFI 10-217, para. 5.1.1. When using civilian employees as READY program augmentees, management must comply with local bargaining obligations. AFI 10-217, para. 5.3.4; see generally Master Labor Agreement section 20. Civilian employees required to work in excess of 8 hours a day or 40 hours per week must receive appropriate compensatory time off or overtime payments. AFI 10-217, para. 5.3.3.

b. Civilian augmentees may not be augmented to positions "where there is an inherent possibility of danger to life or limb." AFI 10-217, para. 5.1.5. The purpose of the provision is to prohibit augmentation to positions of "inherent" danger, such as "firefighters and

security police.” Risk of life or limb is an essential characteristic of these positions. Positions requiring an augmentee to be armed are positions of inherent danger. Other examples of positions of inherent danger would be guarding priority assets. See AFPD 31-1, *Physical Security*, para. 3 (1 Aug 95).

c. A frequently asked question is whether an ID card checker is a position of inherent danger. ID cards are routinely checked to verify identity and authority for base entry, as well as for eligibility for services at various facilities around military installations. Checking IDs, in and of itself, is not a position of inherent danger. Checking ID cards in the workplace or at building entry locations is merely implementing physical security measures that are, as noted above, the “responsibility of each military and civilian employee of DoD.” AFJI 31-102, para. 1-6.

d. A more difficult question is whether civilian employees may serve as security force augmentees checking ID cards at base entry control locations. The issue is whether such duty is inherently dangerous. The answer to this question depends on the factual circumstances; specifically, what are the duties of the augmentee. If the augmentee’s duties include confronting and apprehending personnel attempting illegal entry onto an installation, then the position is akin to law enforcement and would be inherently dangerous. On the other hand, if the augmentee’s duties are to simply verify authority to enter the installation and to refer all exceptions to on-scene law enforcement personnel, such a position would be more akin to an ID card checker in the base exchange and would not be inherently dangerous.¹

3. Guard & Reserve Personnel. Guard and reserve personnel may generally be used as force protection augmentees to the same extent as active duty military personnel. There is, however, one minor exception to this general rule. Active Guard and Reserve (AGR) personnel (commonly referred to as “statutory tour personnel”) may not be used for “force protection, base security, or security police functions at Air Force facilities in the United States.” 10 U.S.C. § 12551. This statutory prohibition was enacted in the National Defense Authorization Act for Fiscal Year 1998, Public Law 105-85, § 515, 111 Stat. 1732, 1629 (1997) as a result of what Congress perceived as Air Force attempts to circumvent the 10 U.S.C. § 2465 prohibition against contracting for security guard services by using AGR personnel to replace Air Reserve technicians and civilian personnel at four Air Force installations. H.R. Report 105-132 (House Report for the National Defense Authorization Act for FY98) p. 357. AGR personnel are defined in the statutory prohibition as “members of the Air Force Reserve who are on active duty (other than for training) in connection with organizing, administering, recruiting, instructing, or training the Air Force Reserve.” 10 U.S.C. § 12551; see also 10 U.S.C. § 101(d)(6).

4. Contracting for Security Guards. Since 1982, Congress has prohibited DoD from contracting for security guard or firefighter functions at any military installation or facility. 10 U.S.C. § 2465.² Congress expressed concerns about the quality and reliability of contracted

¹ Such augmentee duties *may* have an element of danger, but they would not be inherently or necessarily dangerous.

² The statute contains three exceptions: (1) contracts outside the United States, (2) contracts on a privately-operated government-owned facility, and (3) security guard functions that have been under contract since 24 Sep 83. 10 U.S.C. § 2465(b).

services, military control over contracted personnel, a contractor's right to strike, and national security. GAO Report: Base Operations—Contracting for Firefighters and Security Guards, GAO/NSIAD-97-200BR, B-277056, at 1 (1997); H.R. Rep. No. 105-132, at 294 (1997). Congress left the term “security guard” undefined, and thus somewhat open for interpretation. OpJAGAF 1998/15, 9 Feb 01. The Air Force has excluded animal control, visitor information services, vehicle impoundment, and registration functions from the contracting out prohibition. AFI 38-203, *Commercial Activities Program*, para. 4.6.2.4 (1 Aug 00). The Air Force definition does not exclude ingress and egress control; physical security patrols and posts; and dedicated arms, ammunition, and explosives security—tasks normally considered to be security guard functions. Compare, DoDI 4100.33, enclosure 3, para. S724. The security guard contracting prohibition encompasses contracting with state and local governments for security guards. However, Congress recently enacted temporary authority to contract with state and local governments for guard services. See USA PATRIOT Act of 2001, § 1010, Pub. L. 107-56.³

5. The new provision providing authority to contract with state and local governments does not extend to private contractors. However, certain services that are segregable from the security guard function may be obtained by contract, e.g., an “ID card checker” if the duties are narrowly tailored and exclude ingress and egress control. An ID card checker who operates independently at a base entry control point is exercising operational control of the installation entry point and would therefore be properly classified as a security guard. On the other hand, a contract augmentee used to assist (rather than replace) current security forces by checking ID cards for the sole purpose of verifying the validity of the ID card as related to the cardholder can be segregated and considered for contracting out. ID card checkers are routinely used at various facilities on Air Force installations, not only to verify identity (e.g., authority to make financial transaction at Accounting and Finance), but also to verify eligibility for certain benefits (e.g., base exchange/commissary shopping privileges and medical care benefits). Thus, in the context of the installation entry control, the narrowly tailored job of checking an ID card is not one of the critical security guard functions subject to the section 2465 contracting prohibition as long as the ID card checker is acting under the direct supervision and control of a security guard. If there were a problem with an ID card, the checker would then refer the issue to the on-scene security

³ The text provides:

(a) IN GENERAL- Notwithstanding section 2465 of title 10, United States Code, during the period of time that United States armed forces are engaged in Operation Enduring Freedom, and for the period of 180 days thereafter, funds appropriated to the Department of Defense may be obligated and expended for the purpose of entering into contracts or other agreements for the performance of security functions at any military installation or facility in the United States with a proximately located local or State government, or combination of such governments, whether or not any such government is obligated to provide such services to the general public without compensation.

(b) TRAINING- Any contract or agreement entered into under this section shall prescribe standards for the training and other qualifications of local government law enforcement personnel who perform security functions under this section in accordance with criteria established by the Secretary of the service concerned.


(c) REPORT- One year after the date of enactment of this section, the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives describing the use of the authority granted under this section and the use by the Department of Defense of other means to improve the performance of security functions on military installations and facilities located within the United States.

guard. Likewise, traffic management duties could be segregated from those “critical security guard functions” as well, if conducted under the supervision of an on-scene security guard.

6. Lastly, while section 2465 prohibits contracting directly for security guard functions, it does not prohibit payments to contractors for indirect security costs. As indicated in DoD Directive 2000.12, *DoD Antiterrorism/Force Protection (AT/FP) Program*, paragraph 5.9.10 (13 Apr 99), “[e]nsure that current AT/FP technology and security requirements are incorporated into all new contracts, where applicable.” As an example, security services for a contractor operated federally funded research and development center, to the extent they are allowable and allocable, would not be an inappropriate charge to a contractor’s indirect costs, as long as the contract was not primarily for security guard services and the indirect cost charge was not a sham transaction designed to obtain security guard services primarily for DoD benefit.

7. To summarize the rules on augmenting force protection resources, military and civilian employees may be used as augmentees. Civilian employees must be properly compensated for overtime, local bargaining obligations must be fulfilled, and they may not be armed or otherwise placed in positions of inherent danger. Guard and reserve personnel may generally be used to augment force protection resources, with the exception of AGR personnel. State and local governments under contract may provide security guard services, until the sunset provision of the recent PATRIOT Act reinstates the prohibition. Security guard functions cannot be obtained from contractors. However, other narrowly tailored non-critical services may be obtained by contract with commercial sources. In addition, consider temporary or term civilian hiring authority and reallocation of military and civilian authorizations into security positions as possible alternative solutions. Indirect contract costs for enhanced security are payable to the extent they are allowable and allocable under the contract as long as they are not for the purpose of providing security guards for the direct benefit of the Air Force.

8. This memo has been coordinated AFMC/SF. My POC is Lt Col Jeff Robb, DSN 787-2832.


JERALD D. STUBBS
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cc:
HQ AFMC/SF